

REMARKS/ARGUMENTS

Claims 1-5, 7, 12-13, 15, 21-22, and 51 are pending in the present application. By this Preliminary Amendment, claims 6, 8-11, 14, 16-20, and 23-50 are canceled; and claims 1, 7, 12-13, 15, 21-22, and 51 are amended for the concurrently filed Request for Continued Examination. Applicants are not conceding in this application that these claims are not patentable over the art cited by the Examiner, as the present claim amendments are only for facilitating expeditious issuance of the application. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Support for these amendments is located at least in the previous draft of the claims and in the Specification on page 7, lines 10-16; on page 13, line 29, through page 14, line 9; on page 16, lines 25-31; on page 23, line 14, through page 24, line 8; and on page 24, line 22, through page 26, line 13. Reconsideration of the claims is respectfully requested.

Claims 1 and 51 are amended independent claims. The Final Office Action rejected claim 1 under 35 U.S.C. § 103(a) as being unpatentable over *Thomas*, Method and Apparatus for Improving Performance on Multiple-Choice Exams, U.S. Patent No. 5,885,087 (March 23, 1999), hereinafter referred to as *Thomas*, in view of *Sugimoto*, Method and System for Performing Adaptive Test, U.S. Patent No. 6,755,661 (June 29, 2004), herein after referred to as *Sugimoto*. The Final Office Action rejected claim 51 under 35 U.S.C. § 103(a) as being unpatentable by *Kershaw et al.*, System and Methods for Computer Based Testing, U.S. Patent No. 5,827,070 (October 27, 1998), hereinafter referred to as *Kershaw* in view of *Thomas*, *Hoehn-Saric et al.*, System and Administration of Remotely-Proctored, Secure Examinations and Methods Therefor, U.S. Patent No 5915973 (June 29, 1999), hereinafter referred to as *Hoehn-Saric*, and *Sugimoto*.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). For an invention to be *prima facie* obvious, the prior art must teach or suggest all claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Applicants respectfully submit that the cited references, taken alone or in combination, do not teach or suggest all of the features of the amended claims.

Applicants respectfully request prompt and favorable consideration of all of claims 1-5, 7, 12-13, 15, 21-22, and 51. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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